In the High Court of Uttaranchal, at Nainital.

Writ Petition No. 187(S/B) of 2006

Lt. Col. Vinay Mohan (IC44100L)
S/o Brij Mohan Sharma,
R/o 77, Uttaranchal N.C.C. Battalion,
Backett House, Almora- 263601 ..Petitioner.

Versus

1- Union of India, through Secretary
Defence, Government of India,
New Delhi.

2- Military Secretary, Army Headquarters
D.H.Q. P.O. New Delhi-110011

3- Director General, N.C.C. West Block
-IV, R.K. Puram, New Delhi-110066

4- Deputy Director General,
N.C.C. directorate (Uttar Pradesh & Uttaranchal)
Lucknow- 2260001.

5- Group Commander,
N.C.C. Group, Headquarters,
Nainital-263001.

6- Col. Deshraj, Commanding
Officer, 77, Uttaranchal NCC Battalion,
Backett House, Almora-263601 ..... Respondents.

Sri Rajendra Dobhal, learned counsel for the petitioner.
Sri Arvind Vashist, learned Asstt. Solicitor General,
for respondents.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 16-06-2006

This writ petition has been filed by the petitioner seeking a writ of certiorari to quash the order of transfer dated 23-5-2006, contained in Annexure No.9 to the writ petition.

2- By the impugned order dated 23-5-2006 the petitioner has been transferred from 77, Uttaranchal N.C.C. Battalion, Backett House Almora to 156 Infantry Battalion (TA) Punjab. He is required to report on July 3, 2006.

3- The order or transfer has been challenged by the petitioner on the ground that the order has been passed out of malice for the reason that the petitioner made complaint against the resp0ondent No.6, Col. Desharaj, Commanding Officer, 77, Uttaranchal NCC Battalion, Backett House, Almora relating to certain anomalies and when the respondent No.6 came to know about the complaint made by the petitioner relating his illegal and irregular activities, he became annoyed and therefore on 31.8.2005 gave a warning in writing to the petitioner on flimsy grounds, which is contained in Annexure-2 to the writ petition. The petitioner submitted his reply before the respondent No.6 denying all the allegations made against him. The petitioner again brought the anomalies of the tenure of respondent No.6, to his notice, which is contained in Annexure No.3 to the writ petition. According to the petitioner the respondent No.6 became vindictive against him and that is the reason that he has not taken the petitioner in one N.C.C. Camp, organized by the Battalion in the month of September, 2005, whereas it was mandatory for the respondent no.6 to have at least two Officers in the camp to participate for better administration of camp. After seeing the vindictive attitude of respondent No.6, the petitioner sought an interview with the then Commodore Vimal Narain on 30-9-2005 and apprised him about the anomalies crept in during the tenure of respondent No.6. Thereafter the petitioner on 8-10-2005, made another complaint against the respondent No.6 to the respondents, pointing out the financial irregularities committed by respondent No.6 in discharge of his official duties, which has been brought on record as Annexure No.-4. The petitioner further sought a clarification of respondent No.5 relating to initiation of annual confidential report of his subordinate as it was wrongly being initiated by the respondent No.6 in place of the petitioner. The respondent No.6 without valid reason awarded few low figurative assessment in the annual confidential report of petitioner for the period of 14.2.2005 to 31.08.2005. The petitioner again submitted a complaint to

commodore Vimal Narain informing him about the various financial and administrative irregularities committed by the respondent No.6. The petitioner made a statutory complaint on annual confidential report of subordinate of the petitioner, by the respondent No.6 through proper channel.

4- On all these complaints made by the petitioner from time to time against the respondent No.6, relating to financial and administrative irregularities committed by him, awaited the decision on the complaints. Despite taking any decision on the complaints, on the other hand the petitioner has been transferred vide order dated 23-5-2006, which was telephonically informed to the petitioner on 6-6-2006, which is contained in Annexure No.9 to the writ petition.

5- Learned counsel for the petitioner submitted that the impugned transfer order, transferring the petitioner from 77, Uttaranchal N.C.C. Battalion, Backett House Almora to 156, Infantry Battalion (TA) Punjab, has been passed at the behest of respondent No.6, thus suffers from voice of malice.

6- On record there is no document which could indicate the nexus of these complaints with the transfer order of the petitioner, therefore, the contention made that the transfer order has been passed at the behest of the respondent No.6, suffers from voice of Malice, is misconceived.

7- There is no other ground of challenge Therefore, the petition is devoid of merit and is dismissed in limine.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

ISB